THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

W.P. NO. 34730 of 1997

DATED: 28-03-2007

Between:-

N. Srinivasulu, E. 105327, Conductor, APSRTC, Ibrahimpatnam Bus Depot, Ibrahimpatnam, R.R. District.

…PETITIONER

And

The Presiding Officer, Labour Court No. III, Hyderabad and another.

…RESPONDENTS

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

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O R D E R

The present writ petition is filed aggrieved by the award of the Labour Court-III, Hyderabad, in I.D. No. 783 of 1993, dated 27.06.1996.

The charges leveled against the petitioner are as under:

1. "For having failed to issue the ticket, despite collecting the requisite fare of 0.75 ps. At the boarding point itself, to a passenger who was found alighting without ticket at Lakdikapool having boarded the bus at Punjagutta, ex-stages 6 to 5/4.
2. For having failed to complete the ticket issues within one fare stage and to observe the TIC points on route Jeedimetla to Charminar."

An enquiry was held into the charges and on the charges being established, the petitioner was removed from service. Aggrieved thereby, he approached the Labour Court-III, Hyderabad. On 02-09-1995 a memo was filed before the Labour Court under Section 11-A of Industrial Disputes Act, consequent to which the domestic enquiry was held to be valid.

While reappreciating the evidence on record, in exercise of its powers under Section 11-A, the Labour Court held that one passenger was not issued ticket and that, in his statement, the passenger had stated that he had paid Rs. 0.75 ps. to the conductor and that the conductor had failed to issue ticket to him. The Labour Court noted the

petitioner's spot explanation in Ex.M-5 that a large number of passengers were travelling in the bus, that he was in the process of refunding the excess amount and in the meanwhile the check had taken place. The Labour Court noted that the distance between Punjagutta to Lakdi-ka-pool was a short distance but that did not absolve the conductor from issuing tickets the moment the passengers paid the fare and it was a clear case where the conductor had not issued tickets at all. The Labour Court came to the conclusion that the petitioner wanted to defraud the revenue of the Corporation and he had not discharged his duties properly. However, since the amount involved was only Rs. 0.75 ps., the Labour Court was of the view that the punishment of removal was disproportionate to the charge held established and that it would suffice if the conductor was imposed the punishment of withholding of back-wages.

The only contention urged by Sri Ramakrishna Sarikonda, learned counsel for the petitioner before this Court is that the petitioner could not be penalised for not issuing the tickets, since the Labour Court had itself come to the conclusion that the distance between Punjagutta and Lakdi-ka-pool was a short distance and the very fact that only one passenger had not been issued ticket would show that the petitioner had no *mala fide* intent to defraud the Corporation of the revenues legitimately due to it. It is necessary to note that this Court, in proceedings under Article 226 of the Constitution of India does not sit in an appeal over findings of fact arrived at by the Labour Court nor would it substitute its views for that of the Labour Court in this regard. The Labour Court came to the conclusion that the petitioner intended to defraud the Corporation of its revenues and that he had not discharged his duties properly. This finding of the Labour Court is on the basis of the evidence on record and does not necessitate interference in proceedings under Articles 226 of

the Constitution of India.

In **Karnataka State Road Transport Corporation Vs. B.S. Hullikatti**[1], the Supreme Court observed that it is the responsibility of bus conductors to collect correct fares from the passengers and deposit the same in the Corporation, that conductors act in a fiduciary capacity, it would be gross misconduct if knowingly they did not collect any fare or the correct amount of fare and that, in such cases, interference with the punishment of dismissal from service was a case of misplaced sympathy by the Labour Court. In **Regional Manager, Rajastan State Road Transport Corporation Vs. Ghanshyam Sharma**[2], the Supreme Court held that the proved acts amounted either to a case of dishonesty or of gross negligence and bus conductors, who by their actions or inactions, cause financial loss to the Corporation, are not fit to be retained in service. In **V. Ramana Vs. A.P.S.R.T.C.**[3], the Supreme Court held that Courts/Tribunals should not interfere unless the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the Court/Tribunal.

It is necessary to note that the Labour Court, in exercise of its discretionary jurisdiction under Section 11-A of the Industrial Disputes Act, has chosen to substitute the punishment of removal from service to that of withholding of back wages. The punishment, as substituted by the Labour Court, is not one which shocks the conscience of this Court or is a punishment which could not have been imposed at all, necessitating interference by this Court under Article 226 of the Constitution of India. The award of the Labour Court does not call for interference. The writ petition fails and is

accordingly dismissed. No costs.

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RAMESH RANGANATHAN,J

Dated: 28-03-2007
vp

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[1] AIR 2001 SC 930
[2] 2002(1) LLJ 234
[3] AIR 2005 SC 3417